

FINAL DEC. 4, 2008

AN AGREEMENT

between

THE MEDINA COUNTY BOARD OF COMMISSIONERS
(TRANSIT DEPARTMENT)

and

THE OHIO ASSOCIATION OF PUBLIC SCHOOL EMPLOYEES,
AFL/CIO, LOCAL #340

EFFECTIVE: January 1, 2008

EXPIRES: December 31, 2010

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ARTICLE 1

PREAMBLE

1.01 This Agreement is hereby entered into by and between Medina County Board of Commissioners, hereinafter referred to as the “Employer”, and the Ohio Association of Public School Employees, hereinafter referred to as the “Union”.

ARTICLE 2

RECOGNITION

2.01 The Employer hereby recognizes the Union as the sole and exclusive bargaining agent with respect to wages, hours and other terms and conditions of employment for all full-time and regular part-time employees employed by the Employer occupying the positions of: Bus Driver, excluding all casual part-time, seasonal and temporary employees and position of Opener. All other employees of the Employer are excluded from the bargaining unit. Said recognition shall continue for a term as provided by law.

2.02 Full time shall be defined as any employee who is regularly scheduled to work eighty (80) hours per pay period, two thousand eighty (2080) hours per calendar year.

2.03 Part time shall be defined as any employee who is regularly scheduled to work less than eighty (80) hours per pay period but more than twenty (20) hours per pay period.

2.04 Casual part time shall be defined as any employee who is not regularly scheduled to work more than twenty (20) hours per pay period.

ARTICLE 3

MANAGEMENT RIGHTS

3.01 Not by way of limitation of the following paragraph, but to only indicate the type of matters or rights which belong to and are inherent to the Employer, the Employer retains the right to:

- a) hire, discharge, transfer, suspend and discipline employees for just cause;
- b) determine the number of persons required to be employed or laid off;
- c) determine the qualifications of employees covered by this Agreement;
- d) determine the starting and quitting time and the number of hours to be worked by its employees;
- e) make any and all reasonable rules and regulations;
- f) determine the work assignments of its employees;
- g) determine the basis for selection, retention and promotion of employees to or for positions not within the bargaining unit established by this Agreement;
- h) determine the type of equipment used and the sequence of work processes;
- i) determine the making of technological alterations by revising either process or equipment, or both;
- j) determine work standards and the quality and quantity of work to be produced;
- k) select and locate buildings and other facilities;
- l) establish, expand, transfer and/or consolidate work processes and facilities;
- m) transfer or subcontract work;
- n) consolidate, merge, or otherwise transfer any or all of its facilities, property, processes or work with or to any other municipality or entity or effect or change in any respect the legal status, management or responsibility of such property, facilities, processes or work;
- o) terminate or eliminate all or any part of its work or facilities.

3.02 In addition, the Union agrees that all of the functions, rights, powers, responsibilities and authority of the Employer in regard to the operation of its work and business and the direction of its workforce which the Employer has not specifically abridged, deleted, granted or modified by the

express and specific written provisions of this Agreement are, and shall remain, exclusively those of the Employer and shall not be subject to the grievance procedure.

ARTICLE 4 **NO-STRIKE**

4.01 The Union does hereby affirm and agree that it will not either directly or indirectly call, sanction, encourage, finance or assist in any way, nor shall any employee instigate or participate, either directly or indirectly, in any strike, slowdown, walkout, work stoppage, or other concerted interference with or the withholding of mandatory or discretionary job assignments for the duration of this Agreement.

4.02 In addition, the Union shall cooperate at all times with the Employer in the continuation of its operations and services and shall actively discourage and attempt to prevent any violation of this article. If any violation of this article occurs, the Union shall immediately notify all employees that the strike, slowdown, work stoppage, or other concerted interference with or the withholding of services from the Employer is prohibited, not sanctioned by the Union and order all employees to return to work immediately. The Union shall not contest the Employer's complaint for injunctive relief.

4.03 It is further agreed that any violation of the above shall be sufficient grounds for disciplinary action.

4.04 The Employer will not lock out any employees during the term of this Agreement.

ARTICLE 5 **NON-DISCRIMINATION**

5.01 The Employer and the Union agree not to discriminate against any employee(s) on the basis of race, color, religion, national origin, age, sex or disability.

5.02 The Employer and Union expressly agree that membership in the Union is at the option of the employee and that they will not discriminate with respect to membership and non-membership.

ARTICLE 6 **DUES DEDUCTIONS**

6.01 During the term of this Agreement, the Employer agrees to deduct from the wages of employees who have voluntarily signed dues deduction authorization forms permitting said deductions for the payment of dues to the Union upon presentation of a written authorization individually executed by an employee. Such deductions shall be pro-rated and deducted on a monthly basis.

6.02 The dues so deducted shall be in the amounts established by the Union. The Union shall, in the form of an invoice, submit to the Employer a certification of bargaining unit membership indicating total amount to be paid. A check will be forwarded to the State O.A.P.S.E. Treasurer.

6.03 The Employer will deduct dues from the first pay of each calendar month. If an employee has no pay due on that pay date, such amounts will be deducted from the next or subsequent pay.

6.04 Any employee who is not a member of the Union shall, as a condition of employment, pay to the Union through payroll deduction, a fair share fee as a contribution toward the administration of this Agreement that fair share fee not exceeding the regular dues of the Union.

6.05 Any future employee who does not make application for Union membership within sixty-one (61) days after being employed shall, as a condition of employment, pay to the Union through payroll deduction a fair share fee as a contribution toward the administration of this Agreement that fair share fee not exceeding the regular dues of the Union.

6.06 The Union agrees to indemnify and save the Employer harmless against any and all claims that may rise out of or by reason of action taken by the Employer in the performance of its obligations under this Article.

ARTICLE 7 P.E.O.P.L.E.

7.01 The Employer agrees to deduct from the wages of any employee who is a member of the Union a P.E.O.P.L.E. deduction as provided for in written authorization. Execution of such authorization by the employee shall be voluntary and may be revoked by the employee at any time by giving written notice to both the Employer and the Union. The Employer agrees to remit any deductions made pursuant to this provision promptly to the OAPSE State Office together with an itemized statement showing the name of each employee from whose pay such deductions have been made and the amount deducted during the period covered by the remittance.

ARTICLE 8 PROBATIONARY PERIOD

8.01 All new employees will be required to serve a probationary period of one hundred sixty (160) days. During such period, the Employer shall have the sole discretion to discipline or discharge such employee(s) and any such action shall not be appealable through any grievance or appeal procedure contained herein or to the State Personnel Board of Review.

8.02 If any employee is discharged or quits while on probation and is later rehired, he shall be considered a new employee and shall be subject to the provisions of paragraph 7.01, above.

ARTICLE 9 LABOR/MANAGEMENT COMMITTEE

9.01 In the interest of sound labor/management relations, once each quarter on a specifically designated day and time, the Director and/or designee(s) shall meet with not more than two (2) representatives of the Union to discuss pending problems and to promote a more harmonious work environment.

9.02 These meetings shall be scheduled in advance by those who are to attend and shall not interfere with the bargaining unit member's scheduled work day (except when initiated by the

Employer/designee).

ARTICLE 10 **PERSONNEL RECORDS**

10.01 It is the employee's responsibility to notify Human Resources whenever there is a change of address, telephone number, marital status, dependents, deductions, etc. The employee must submit any updated information to the Human Resources on the Records Change Form.

10.02 Employees may review their personnel file maintained in the Human Resources Department. The employee shall make the request to Human Resources a minimum of two (2) working days prior to the date to review the file. Personnel files shall be reviewed in the presence of a Human Resources representative. At the request of the member, a representative of the Union may accompany the member. A member may obtain a copy of materials from his/her personnel file at cost which will be provided to the employee within five (5) working days.

ARTICLE 11 **BULLETIN BOARDS**

11.01 The Employer shall provide the Union with adequate bulletin board space. The Employer shall have the right to direct a union officer to remove any material not in conformance with 11.02 below.

11.02 No notices, memorandums, posters or other forms of communication will be posted on the bulletin board that contain any defamatory, political (except union election notices), controversial material or any material critical of the Employer or any employee of the Employer. The Union shall supply one (1) copy of each such posted material to the Employer prior to posting such material. The Employer agrees not to post any notices, memorandums, posters or other forms of communication on this bulletin board space.

ARTICLE 12 **TRANSPORTATION / BIDDING PROCEDURES**

12.01 Routes will be bid on not less than twice per year with the bidding of routes being conducted in the following manner:

- a. All employees shall bid on routes by seniority and such selection shall be implemented within three (3) weeks.
- b. Bus drivers may bid for vacant or new runs as they occur. Such runs shall be awarded by seniority. If a current bus driver applies for and is awarded such a run, thereby creating a new vacancy in his/her previous position, that new vacancy shall also be filled by seniority. If no bargaining unit member applies for a run or after the second successor bid, the Employer may assign another driver or hire from outside the bargaining unit.
- c. The Transportation Supervisor may make changes in routes/runs, and times, for the reasons of safety or to maximize efficiency.

- d. Employees may be permitted to trade a daily run provided they are in the same work week. Prior approval must be requested and approved by the Transportation Supervisor or his/her designee prior to trading the run.
- e. If mechanical failure, accident, or other delays beyond his/her control cause a driver to work in excess of their regular time, the driver shall be paid for all such excess time. It shall be the responsibility of the driver to file for the excess time. Excess time shall be paid in quarter or tenths of an hour increments.

12.02 The minimum pay for being called in shall be three (3) hours of pay.

12.03 The time measurement shall be made for each driver for the time necessary to depart from the bus storage point and return directly to the storage point for each route.

12.04 The total daily driving time shall include fifteen (15) minutes pre-trip and fifteen (15) minutes post trip, which includes bus clean-up time.

12.05 Employees who are assigned duties of training a new employee will receive a \$.50 per hour increase for each hour performing such training.

12.06 Notwithstanding another provision of this Agreement, the Employer reserves the right to deny any employee a specified route during the bidding process or to remove any employee from a route for the good of the Employer, at its discretion. Employees removed from their route shall, to the extent practical, be offered another route with the same or similar hours.

12.07 Hours bid are only estimated hours per day and may be increased or decreased at the discretion of the Employer based on efficient operating procedures. All employees are limited in bidding for not more than thirty-six (36) hours per week and twelve (12) hours per day. Any employee who has his/her scheduled route reduced by more than one (1) hour per day, average, shall have the right to bump another less senior employee which is the same or similar in the employee's previous hours. The employee who is subsequently bumped out of a route/s shall have the choice to accept the reduced route or bump a less senior employee in the same manner. If no employee accepts the reduced route, the Employer may assign another driver or hire from outside the bargaining unit.

12.08 Announcement of vacant positions/routes will be posted on the bulletin board of each site for a period of seven (7) days.

12.09 The notice of vacancy shall include the following:

- A. The route
- B. Date of Posting
- C. Application procedure & deadline date

cases of Family Medical Leave (FML) and workers' compensation.

13.06 Any employee who has been or may be promoted or transferred from a job within the bargaining unit to a position outside the bargaining unit shall retain their seniority held at the time of such promotion or transfer. If the employee returns to the bargaining unit, the employee shall be entitled to exercise the seniority accumulated from prior service within the bargaining unit.

ARTICLE 14 LAYOFF AND RECALL

14.01 Where, because of economy, consolidation, abolishment of functions, curtailment of activities, or for other good cause, the Employer determines it necessary to reduce the size of its work force, employees shall be laid off according to their relative seniority within the bargaining unit with the least senior being laid off first, provided that all students, temporary, casual part-time, seasonal, and probationary employees within the bargaining unit are laid off first.

14.02 Recalls shall be in the inverse order of layoff and laid-off employee shall retain his right to recall for twelve (12) months from the date of his layoff.

14.03 Notice of recall shall be sent to the employee's address listed on the Employer's records and shall be sent by regular and certified mail. An employee who refuses recall or does not report for work within ten (10) calendar days from the date the Employer mails the recall notice shall be considered to have resigned his position and forfeits all rights to employment with the Employer.

ARTICLE 15 SICK LEAVE

15.01 Sick leave shall be defined as an absence with pay necessitated by:

- a. illness or injury to the employee;
- b. exposure by the employee to a contagious disease communicable to other employees; and/or,
- c. serious illness, injury or death in the employee's immediate family.
- d. Immediate family in paragraphs a. through c. are defined as: spouse, children (i.e., dependent residing in same household), parents residing with the employee, or minor over whom the employee is legal guardian.

15.02 All employees shall earn sick leave at the rate of four and six-tenths (4.6) hours for every eighty (80) hours paid and may accumulate such sick leave to an unlimited amount.

15.03 An employee who is to be absent on sick leave shall notify the Employer of such absence and the reason therefore at least two (2) hours before the start of his work shift each day he is to be absent.

15.04 Sick leave may be used in segments of not less than one (1) hour.

15.05 Before an absence may be charged against accumulated sick leave, the Employer may require proof of illness, injury or death as may be the satisfactory to the Employer, or may require the employee to be examined by a physician designated by and paid for by the Employer. In any event, an employee absent for three (3) consecutive work days must supply a physician's report to be eligible for paid sick leave, unless waived by the Employer.

15.06 If the employee fails to submit adequate proof of illness, injury or death, or in the event that upon proof as is submitted or upon the request of medical examination, the Employer finds there is not satisfactory evidence of illness or death sufficient to justify the employee's absence, such leave may, be considered an unauthorized leave and shall be without pay.

15.07 Any abuse of patterned use of sick leave shall be just and sufficient cause for disciplinary action.

15.08 The Employer may require an employee who has been absent due to personal illness or injury, prior to and as a condition of his return to duty, to be examined by a physician designated and paid by the Employer, to establish that he is not disabled from the performance of his duties and that his return to duty will not jeopardize the health and safety of other employees.

15.09 Upon retirement of an employee who has not less than ten (10) years of continuous employment with the Employer and who has qualified for retirement benefits from the State of Ohio Retirement System, such employee shall be entitled to receive a cash payment equal to his hourly rate of pay at the time of retirement multiplied by one-third (1/3) the total number of accumulated but unused sick hours earned by the employee, as certified by the Employer, provided that such payments shall not exceed nine hundred sixty (960) hours.

15.10 The use of sick leave, other than for worker's comp. leave or leave utilized pursuant to Family Medical Leave (Article 18), on four (4) or more occasions in any twelve (12) month period, shall subject the employee to disciplinary action according to the following schedule:

<u>No. of Occasions</u>	<u>Discipline</u>
Four (4) times	written reprimand
Five (5) times	one (1) day suspension/fine
Six (6) times	ten (10) day suspension
Seven (7) times	termination

15.11 An "occasion" for purposes of paragraph 14.11, above, shall mean the individual utilization of sick leave, regardless of the number of hours involved, (e.g., one (1) hour, one (1) day of five (5) consecutive work days would be counted as one (1) occasion of sick leave). Any time an employee reports back to work and begins working ends an occasion of sick leave. However, the first two (2) utilizations of sick leave for doctor appointments in any twelve (12) month period shall not be deemed an occasion, when a.) the Employer is advised at least forty-eight (48) hours in advance; b.) the employee takes no other sick day in conjunction with the doctor's appointment; and, c.) the employee returns to work with a physician signed form prepared by the Employer.

15.12 Written cautions under this Section are not subject to the grievance procedure with the one (1) exception of the appropriate application of 14.11 (i.e., miscounting occasions to determine the appropriate level of discipline). In such cases, a grievance may be processed through Step 3.

15.13 Discipline involving a suspension under this Section is grievable only through Step 3.

15.14 Discipline may be waived upon a showing of error in the application of this provision or satisfactory evidence that the occasion was a result of a bona fide, unpredictable or recurring medical condition necessitating the employee's absence and the employee submits medical documentation substantiating same. The employee shall provide any medical information required by the Employer upon the first day of return to work. Failure to provide the required information on the first day of return to work shall result in the absence being treated as a separate occasion.

15.15 Employees who are injured on-the-job may utilize their sick leave during the Workers' Compensation waiting period. The Employer will reinstate such sick leave, providing the employee surrenders their Workers' Compensation payment for such days to the Employer. Such leave shall be reimbursed at the percentage paid by Workers' Compensation.

ARTICLE 16 **HOLIDAYS**

16.01 Employees who are normally scheduled to work and who choose to work or who are required to work on authorized County holidays, shall be paid at time-and-on-half (1½) their regular rate of pay for the hours they work on such holidays.

16.02 Prior to each holiday where the number of bus runs will be reduced, a signup sheet will be posted for qualified drivers who wish to work on the holiday. To the extent practical, drivers will be selected by seniority rotation from that list in the following order:

1. Drivers who normally would be working that day, by seniority;
2. Drivers who normally would not be working that day, by seniority;
3. If not enough people have voluntarily agreed to work, routes will be assigned by reverse seniority order.

16.03 For reduced workdays caused by agency closings, or other circumstances beyond the control of the Employer, routes will be reduced, closed, and/or combined, in whatever way the management determines is most efficient. The Employer retains the right to assign drivers other than by seniority when such assignment is determined to be due to the Employer's needs.

ARTICLE 17 **JURY DUTY LEAVE**

17.01 Any employee who is called for jury duty while scheduled to work for the Employer shall not suffer loss in pay during such duty. The employee shall be required to turn over all money received from the Court to the Employer.

ARTICLE 18

BEREAVEMENT LEAVE

18.01 Each employee shall be entitled to not more than three (3) consecutive days of paid bereavement leave upon the death of a member of the employee's immediate family for the purpose of attending the funeral, provided the employee is scheduled to work such days. If the employee is not scheduled to work such days, no pay will be due.

18.02 All employees may be required to provide written verification of the death for which they wish to exercise bereavement leave.

18.03 The term "immediate family" for Bereavement Leave shall be defined as the employee's: spouse, parents, current spouses' parents, children, grandparents, sibling(s), grandchildren, step parents, step-children, or step-siblings.

18.04 Additional days for bereavement shall be chargeable to the employee's sick leave and must have prior approval from Transit Management.

18.05 For a family relative not a member of the "immediate family", as defined above, time taken for bereavement leave may be granted and charged to sick time, or with no pay.

ARTICLE 19

FAMILY MEDICAL LEAVE (FMLA)

19.01 Family Medical Leave will be granted in accordance with the Family Medical Leave Act of 1993. Employees shall be required take all time off accruals for which their employment status so qualifies them, e.g., sick and/or vacation hours or personal day as of the first day their leave begins. In no event may an employee take any portion of their FML as unpaid until all available accrued paid time has been exhausted

19.02 All paid time off shall run concurrently with the twelve (12) week FML entitlement. Such paid and unpaid leave under FML shall equal a maximum total of twelve (12) work weeks (480 hours). This also applies to a FML that is taken either intermittently or through a reduced work schedule.

ARTICLE 20

MEDICAL UNPAID LEAVE OF ABSENCE

20.01 The employer may grant a medical unpaid leave of absence to an employee who has completed the probationary period set forth in Article 7 for any disability, illness or injury suffered by the employee. The employee must exhaust all available paid time off before a medical unpaid leave of absence will be permitted. The maximum duration for Medical Unpaid Leave is six (6) months and may be extended at the Employer's discretion. Leaves for a disabling illness, or injury are limited to the period of time that the employee is unable to perform his/her duties if less than six (6) months. The Employer may request medical certification establishing the employee's injury or illness as a condition of granting medical unpaid leave of more than three (3) consecutive days.

20.02 The employee must request a medical unpaid leave of absence in writing. The request must state both the reason as well as the dates for which the medical leave is needed and

include a doctor's report if the leave is needed for a disabling illness, or injury. The doctor's report must state the reason for the leave and its expected duration. If the leave is for a disabling illness or injury, the employee must present a doctor's certification which states he/she can return to work without restrictions when returning from this leave.

20.03 The employee must provide the Employer with at least fifteen (15) days advance written notice of the date he/she intend to return from medical unpaid leave of absence. Upon completion of the leave he/she will be returned to the same or a similar position within his/her classification. The employee may also end this leave early if the Employer agrees.

20.04 If the employee fails to report to work at the end of an unpaid leave of absence, he/she shall be removed through the Employer's disciplinary procedure.

20.05 If the Employer finds the employee is not using the leave for the purpose designated, the leave will be cancelled and the employee directed to report to work.

20.06 Replacements for employees on this leave will be done by temporary appointment only.

20.07 The employee will be required to use all his/her accrued paid leave before going on leave without pay status for this leave.

ARTICLE 21 UNION LEAVE

21.01 Two (2) members of the bargaining unit shall be granted unpaid Union leave, not to exceed three (3) days per member (or a total of six (6) days per year) to attend the O.A.P.S.E. Annual Conference. Written notice of the names of those in attendance shall be provided to the Transit Director two (2) weeks in advance.

21.02 The President of the Union shall be given release time without loss of pay to attend negotiation meetings.

ARTICLE 22 PERSONAL DAY

22.01 Any employee with one (1) year seniority who carries over a sick leave balance of not less than one-half (1/2) of the sick leave earned in the previous year may use up to one sick day, i.e. their normally scheduled work day, as personal leave subsequent to January 1st of each year.

22.02 Such use of sick leave shall not be counted as an occurrence under the sick leave provision. (Article 14).

ARTICLE 23 BREAKS AND LUNCH

23.01 Employees, to the extent practical, will receive one fifteen (15) break for each four (4) hour period within a shift, which will be taken when there is a break in their schedule. Employees, to the extent practical, will receive a half (1/2) hour paid lunch, when the employee's shift

meets and/or exceeds eight (8) hours per shift, which will be taken only at the scheduled time or a break in their schedule if lunch has not been scheduled. No extra pay shall be given to an employee missing a lunch and/or break.

ARTICLE 24 TRAINING

24.01 If the Employer requires an employee to attend training, or a training workshop, outside the employee's regular work shift, the employee will be compensated at his/her regular hourly rate of pay.

ARTICLE 25 MEETING ATTENDANCE

25.01 Employees shall receive their regular rate of pay for attendance at meetings beyond their normal daily hours at which their attendance is required by the Employer.

25.02 This does not apply to any meetings initiated by the employee, or grievances.

ARTICLE 26 OVERTIME

26.01 Overtime will be paid at the rate of one and one half (1 ½) times the employee's regular rate for all time actually worked in excess of forty (40) hours in the seven (7) day period from Sunday (midnight) to Saturday (11.59.99 p.m.).

ARTICLE 27 CALL-IN PAY/CALAMITY

27.01 Whenever an employee is required to report to work and is sent home before he/she has worked three (3) hours, that employee shall receive a minimum of three (3) hours pay at their regular rate of pay, inclusive of time already worked.

27.02 Whenever Medina Transit is closed due to a calamity situation, employees who have reported to work shall be paid a minimum of three (3) hours pay at their regular rate of pay, inclusive of time already worked.

ARTICLE 28 SALARY SCHEDULE

28.01 Effective the first pay period of 2008, the following salary schedule shall be implemented:

<u>Probation</u>	<u>Step 1</u>	<u>Step 2</u>
\$10.20	\$10.51	\$10.81

28.02 Effective the first pay period of 2009, the following salary schedule shall be implemented:

<u>Probation</u>	<u>Step 1</u>	<u>Step 2</u>
\$10.51	\$10.83	\$11.13

28.03 Effective the first pay period of 2010, the following salary schedule shall be implemented:

<u>Probation</u>	<u>Step 1</u>
\$10.72	\$11.36

28.04 Newly hired employees shall be placed at the probation step in the above schedule. Probationary employees shall move to Step 1 upon the completion of their probationary period and to Step 2, one (1) year thereafter. Beginning the first pay period of 2010, the Step 2 rates will become Step 1 rates, and Step 1 will be eliminated.

ARTICLE 29 UNPAID LEAVE

29.01 The Employer shall grant time off without pay to an employee who has been employed not less than one (1) year by the Employer. Such time off without pay has a maximum duration of up to four (4) calendar weeks cumulative and must be requested in writing to the employee's supervisor. Leave shall be granted in calendar week increments, regardless of whether the employee takes all bid days or only one (1) bid day within that calendar week. No more than two (2) employees can be permitted off on the same day. Additional days and/or number of employees permitted off per day shall be granted at the Employer's discretion.

Employees shall be granted unpaid leave for the following calendar year according to seniority if such leave is requested on or between December 1st and December 15th in each year of the agreement.

After December 15th, such leave shall be granted on a first-come first-serve basis. If such leave is requested by two or more individuals on the same day, the employee(s) with the most seniority shall be granted leave over the less senior employee(s).

ARTICLE 30 HEADINGS

30.01 It is understood and agreed that the use of headings before articles or sections is for convenience and identification only that no heading shall be used in the interpretation of said article or section nor effect any interpretation of any article or section.

ARTICLE 31 GENDER AND PLURAL

31.01 Whenever the context so requires, the use of words herein, in the singular, shall be construed to include the plural, and words in the plural, the singular, and words whether in the masculine, feminine or neuter gender shall be construed to include all of said genders. By the use of either the masculine or feminine genders it is understood that said use is for convenience purposes only and is not to be interpreted to be discriminatory by reason of sex.

ARTICLE 32 OBLIGATION TO NEGOTIATE

32.01 The Employer and the Union acknowledge that during negotiations which preceded

this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining/negotiations and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

32.02 Therefore, for the life of this Agreement, the Employer and the Union each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to negotiate collectively with respect to any subject or matter referred to, or covered in this Agreement, or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated and signed this Agreement.

32.03 Only upon mutual agreement of the parties may any provision of this Agreement be renegotiated during its term.

ARTICLE 33 **TOTAL AGREEMENT**

33.01 This Agreement represents the entire agreement between the Employer and the Union and unless specifically and expressly set forth in the express written provisions of this Agreement, all rules, regulations, benefits and practices previously and presently in effect may be modified and discontinued at the sole discretion of the Employer, without any such modifications or discontinuances being subject to any grievance or appeal procedure herein contained.

ARTICLE 34 **CONFORMITY TO LAW**

34.01 This Agreement shall be subject to and subordinated to any applicable present and future federal and state laws, and the invalidity of any provisions of this Agreement by reason of any such existing or future law shall not effect the validity of the surviving provisions.

34.02 If the Enactment of legislation, or a determination by a court of final and competent jurisdiction (whether in a proceeding between the parties or in one not between the parties but controlling by reason of the facts) renders any portion of this Agreement invalid or unenforceable, such legislation or decision shall not effect the validity of the surviving provisions of this agreement, which shall remain in full force and effect as if such invalid provision(s) thereof had not been included herein.

34.03 In the event a portion of this Agreement is rendered invalid, as set forth above, upon written notification of either party, the parties shall meet within thirty (30) days to negotiate a lawful alternative.

ARTICLE 35 **CIVIL SERVICE LAW**

35.01 No section of the Civil Service Laws contained in Ohio Revised Code Chapter 124.01 et seq. or Ohio Administrative Code Chapter 124-1-01 et seq. shall apply to the employees in the bargaining unit and it is expressly understood and agreed that the Ohio Department of

- A. An employee shall be entitled to representation by a Union representative at each step of the disciplinary procedure.
- B. An employee shall not be coerced, intimidated, or suffer any reprisals either directly or indirectly that may adversely affect his hours, wages, or working conditions as the result of the exercise of his rights under this procedure.

41.03 An employee may resign following the service of a Notice of Discipline. Any such resignation will be processed in accordance with the Employer's Rules and Regulations and the employee's employment shall be terminated.

41.04 Discipline shall be imposed only for just cause. The specific acts for which discipline is being imposed and the penalty proposed shall be specified in the Notice of Discipline. The Notice served on the employee shall contain a reference to dates, times and places, if possible.

41.05 When the Employer seeks as a penalty the imposition of a fine a verbal written reprimand or suspension without pay, notice of such discipline shall be made in writing and served on the employee personally or be registered or certified mail, return receipt requested.

41.06 Employees are subject to immediate termination if the Employer has reasonable suspicion that a serious infraction, such as, but not limited to, theft, use of non-prescription drugs or alcohol on duty, commission of a felony, intentional infliction of injury to a passenger, coworker or forging Transit Department documents. A termination may be appealed directly to Step II of the Grievance Procedure within five (5) working days following receipt of the Notice.

41.07 Discipline, except termination as stated in Section 41.06, shall not be implemented until either:

- 1. The matter is settled, or
- 2. The employee fails to file a grievance within the time frame provided by this procedure, or
- 3. The penalty is upheld at Step II of the Grievance Procedure.

41.08 The Notice of Discipline served on the employee shall be accompanied by written statement that:

- 1. The employee has a right to object by filing a grievance within five (5) working days following receipt of the Notice of Discipline;
- 2. The Grievance Procedure provides for a hearing by an independent arbitrator as its final step;
- 3. The employee is entitled to representation by a Union representative at every step of the proceeding;

41.09 If a grievance is filed and pursued within the time frames provided below, no penalty can be implemented, except as provided in paragraph 39.12, until the matter is settled or the arbitrator renders a determination.

41.10 The following administrative procedures shall apply to disciplinary actions:

A. The Employer and the employee involved are encouraged to settle disciplinary matters informally. Each side shall extend a good faith effort to settle the matter at the earliest possible time. The Employer is encouraged to hold an informal meeting with the employee for the purpose of discussing the matter prior to formal presentation of written charges. The specific nature of the matter will be addressed, and the Employer may offer a proposed disciplinary penalty. The employee must be advised before the meeting that she/he is entitled to representation by the Union during the initial discussion.

B. If a mutually agreeable settlement is not reached at this informal meeting the Employer, will, within ten (10) working days, prepare a formal Notice of Discipline and present it to the employee. If no informal meeting is held, the Employer may just prepare a Notice of Discipline and present it to the employee. The Notice of Discipline will include advice as to the employee's rights in the procedure, and the right of representation.

C. Upon receipt of the Notice of Discipline, the employee may choose to accept the proposed discipline or to appeal by filing a grievance pursuant to Step 2 of the Grievance Procedure. The appeal must be filed at Step II within five (5) working days from receipt of the Notice of Discipline.

41.11 A failure to submit an appeal within the above time limit shall be construed as an agreement to the disciplinary action by the effected employee and Union. All subsequent appeal rights shall be deemed waived.

41.12 A disciplinary matter may be settled at any time. The terms of the settlement shall be agreed to in writing. An employee executing a settlement shall be notified of the right to have a Union representative or to decline any such representation. A settlement entered into by an employee shall be final and binding on all parties. The Union shall be notified of all settlements.

41.13 An employee may be suspended with pay at any time during the process. A suspension without pay may be imposed concurrent with or subsequent to the decision at Step 2 of the Grievance Procedure.

41.14 The Union on behalf of all the employees covered by this Agreement and its own behalf, hereby waives any and all rights previously possessed by such employees to appeal any form of disciplinary action (e.g. suspensions, demotion, fine or discharge) to any Civil Service Commission or State Personnel Board of Review.

41.15 Forms - Appendix:

1. Notice of Disciplinary Action
2. Appeal or Acceptance of Disciplinary Action
3. Employee Rights

ARTICLE 42 **GRIEVANCE PROCEDURE**

42.01 The Employer recognizes that in the interest of effective personnel management, a procedure is necessary whereby bargaining unit members can be assured of a prompt, impartial and fair hearing on their grievance. Such procedures shall be available to all bargaining unit employees and no reprisals of any kind shall be taken against any employee of the bargaining unit initiating or participating in the grievance procedure.

42.02 A Grievance is a complaint by a member or members of the bargaining unit or the Union that there has been a violation, misinterpretation or misapplication of the provisions of only this Agreement.

42.03 Grievance Procedure

Informal Any member having a grievance shall first discuss such grievance with his immediate supervisor within ten (10) days from the date of the incident giving issue to the grievance.

Step I If the matter is not resolved to the satisfaction of the Grievant, within seven (7) days, from the date of the informal meeting, s/he shall set forth his/her complaint in writing to the Director or his/her designee. The Director or designee shall issue a decision in writing to the Grievant within seven (7) days of receipt of the written complaint.

Step II The Grievant may appeal the Step 1 decision to the County Administrator or designee within seven (7) days from receipt of the written response. The County Administrator or designee shall meet with the Grievant within ten (10) days after the grievance is appealed. The County Administrator or designee shall submit their decision in writing to the Grievant within ten (10) days of the meeting.

Step III If the grievance is not resolved to the Grievant's satisfaction, a demand for arbitration may be made to the Transit Director within thirty (30) days following the date of the Step II answer.

The Union and Employer shall select an Arbitrator from the panel listed below. Should the Union and Employer be unable to mutually agree on an Arbitrator, then the Arbitrator shall be selected by striking names, with the Union striking first.

1. Jeff Belkin
2. Harry Graham
3. Nels Nelson
4. Dennis Byrne
5. Nancy M. Johnson

42.04 Related grievances involving the same employee/s and arising out of the same set of facts or occurrence may be consolidated for arbitration. If the parties cannot agree on consolidation, the Arbitrator will decide the issue of consolidation before hearing any of the case.

42.05 The decision of the Arbitrator shall be final and binding upon all parties involved and shall serve as the final step of the grievance procedure.

42.06 Union Representation. A member may have a Local #340 representative at each step of the Grievance Procedure. In addition, the O.A.P.S.E. State Representative may be present at any step of the grievance procedure.

Whenever possible, the same representative(s) will be provided at Step I and Step II. At the Informal Hearing, the Union representative(s) must schedule a meeting with the immediate supervisor, stating the general purpose of the meeting and who will be present. The Employer reserves the right to have other administrators present at such a meeting as it deems appropriate.

42.07 Fees and Expenses of Arbitration. All fees and expenses of the Arbitrator shall be borne by the party losing the arbitration, unless there is split decision. A split decision means the grievance is granted or denied in part. If there is a split decision or there is any doubt as to who is the losing party, the Arbitrator will be responsible for determining which party is responsible for the costs. Each party shall be responsible for the expense of its own representation and any witnesses it may call.

42.08 Time Limits.

- a. The number of days indicated at each step is considered a maximum. The time limits specified may be extended by written agreement of the parties involved.
- b. Failure by the Employer, at any step of these procedures, to hold the hearing provided or to issue a decision on a grievance within the specified time limits shall be considered as a denial of the grievance.
- c. Failure by the Grievant to appeal to the next step within the time limits specified shall be considered as a resolution of the grievance at the current level and further appeal shall be barred.
- d. The failure of either party to meet the time limits shall not be construed as precedent.

NOTICE OF DISCIPLINARY ACTION

TO:

FROM:

DATE:

SUBJECT: Proposed Disciplinary Action

You are hereby notified that your Employer proposes to take the following disciplinary action against you:

You have certain rights regarding the appeal of the above proposed disciplinary action. Please read the attached information regarding these rights.

TRANSIT DIRECTOR

APPEAL OR ACCEPTANCE OF DISCIPLINARY ACTION

To the Employee:

This form must be returned within five (5) working days to the Transit Director if you want to appeal the proposed disciplinary action.

_____ I AGREE WITH AND ACCEPT THE PROPOSED DISCIPLINE

_____ I WISH TO APPEAL THE PROPOSED DISCIPLINE FOR THE FOLLOWING REASONS:

(If more space is needed, attach extra sheets of paper)

Signature: _____

Date: _____

Approved: Date: _____

Transit Director's Signature: _____

EMPLOYEE RIGHTS

You have been served with a Notice of Discipline. Under the labor contract you have rights as listed below. PLEASE READ THESE RIGHTS THOROUGHLY BEFORE YOU AGREE OR DISAGREE WITH ANY PROPOSED DISCIPLINARY ACTION.

If, after reading your rights and discussing the matter with your Union representative, or an attorney at your own expense, you agree to the proposed discipline, you may simply sign this form at the bottom to note your agreement, and return it to the Transit Director.

If you disagree with the discipline, you should state your reasons in writing in the space provided below, and return this form to the Transit Director within five (5) working days of receipt of the Notice of Discipline.

RIGHTS

1. You are entitled to representation by the Union, or you may hire an attorney at your own expense, to represent you at each step of this procedure.
2. You have the right to object to the proposed discipline by filing a disciplinary grievance with five (5) working days of receipt of the proposed discipline with the Transit Director.
3. If you file your objections, the County Administrator or designee will schedule a formal meeting within ten (10) working days of receipt of this form to discuss the matter. You may have representation at this meeting.
4. The County Administrator or designee will report his/her decision with five (5) working days following the close of the hearing.
5. You will have ten (10) working days after receipt of the County Administrator's or designee's decision in which to appeal the decision pursuant to the Grievance Procedure.
6. No recording will be made of discussions or questioning unless you are informed and are provided a copy of the transcript or record with at least five (5) working days prior to the date of arbitration. Cost of the record or transcript shall be paid by the party requesting the copy of the transcript.
7. The cost of the arbitrator will be paid by the losing party.

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